HAROLD EUGENE TURNER

IBLA 83-740 Decided May 30, 1984

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneously filed oil and gas lease application W 85046.

Affirmed as modified.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Drawings

   A mismatched Part A and Part B in the automated simultaneous oil and gas leasing system renders an application unacceptable under the regulations because the computer is prevented from fully completing the automated program.

2. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Filing

   Where an application form is deemed unacceptable under the automated simultaneous oil and gas leasing system, all filing fees submitted with such form are returned after assessment of a $75 processing fee, even if the deficiency which renders the form unacceptable is not discovered until after selection of successful applications.

APPEARANCES: Harold Eugene Turner, pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Harold Eugene Turner appeals from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated May 24, 1983, rejecting his simultaneously filed oil and gas lease application which had been drawn with first priority for parcel WY-330 in the April 1983 drawing. The decision held that Turner's application was defective because Part B filed in that drawing, which encompassed applications to lease for three parcels, contained the identification number 477065213 "bubbled" in on the machine-readable portion of the application. This was different from appellant's identification number as shown on Part A of his application. BLM rejected the application pursuant to 43 CFR 3112.2-1(g) (1982) and 43 CFR 3112.6-1(c) (1982).

In his statement of reasons, Turner claims that his error should not be deemed sufficient cause for rejection since it was obvious and identifiable. He argues that rejection for a minor error such as his is counterproductive to the use of Part B for multiple applications.

[1] Appellant's situation closely resembles the circumstances recently addressed by the Board en banc in the appeal styled Shaw Resources, Inc., 79 IBLA 153, 91 I.D. 122 (1984). We held that a mismatched Part A and Part B in the automated system renders an application "unacceptable" under the regulations.

A mismatch occurs where the automated processing system cannot locate an identification number for a filed Part A which corresponds with the identification number of the submitted Part B. The system is designed to "read" identification numbers by scanning the filled in, or "bubbled," circles appearing on the automated forms. It is the filling in of these circles, which are machine readable, rather than the numerical transcription, which controls the question of whether a Part B application is properly completed. Satellite Energy Corp., 77 IBLA 167, 90 I.D. 487 (1983). Therefore, Turner's mistaken use of 477065213 as his identification number on Part B when his filed Part A read 477165213 rendered his application unacceptable since it prevented the computer from fully completing the automated program. Shaw Resources Inc., supra.

Contrary to his assertions, appellant's error is not de minimis or nonsubstantive because it did in fact prohibit the automated system, designed to enhance BLM's capacity to administer the selection program, from completion of its assigned tasks. See Shaw Resources, Inc., supra, Satellite Energy Corp., supra. In order to determine the identity of the applicant, it became necessary for BLM to accord Part B individual attention. This defeats the purpose for adopting the automated processing program. See 46 FR 55783 (Nov. 12, 1981).

[2] Since we have determined that his filing was "unacceptable," our next consideration is the resulting consequences for such distinction. In Shaw Resources, Inc., supra at 176, 91 I.D. at 135, we stated:

> We are cognizant that in a number of cases appealed to this Board the lack of a matching Part A and Part B was not discovered by BLM until after an application had been selected with priority. BLM deemed such cases to involve "rejection" of an application. This is not the case. Such applications were, in fact, unacceptable at the time they were filed, and their subsequent erroneous inclusion in the selection process did not alter their status. Upon discovery of the deficiencies in these cases, BLM should have declared the applications "unacceptable," canceled any priority which these applications might have received, and refunded the filing fees, save for the processing costs.

As explained in the Shaw decision, retention of only a processing fee is required where the application was "rejected" under 43 CFR 3112.2-1(g) (1982)

and 3112.6-1(c) (1982) but would be considered unacceptable under the present regulations. Id. at n.9.

In light of the principles expounded in Shaw Resources, Inc., we conclude that Turner's application was unacceptable and priority for parcel WY-330 was properly denied. However, since the application is not considered rejected, BLM should remit to appellant the fees tendered with this application form after a processing fee of $75 has been assessed.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision is affirmed as modified.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Franklin D. Arness
Administrative Judge

Bruce R. Harris
Administrative Judge